

#1

COMMONWEALTH OF MASSACHUSETTS

FILED

JUN 26 2019

NANTUCKET SUPERIOR
COURT CLERK

NANTUCKET, ss.

SUPERIOR COURT
CIVIL ACTION NO.

1975CV00023

SD WHITE PROPERTIES, LLC,

Plaintiff,

v.

TOWN OF NANTUCKET CONSERVATION
COMMISSION,

Defendant.

COMPLAINT

This action seeks relief regarding an Determination of Applicability (the "Decision") issued on June 5, 2019 by the Town of Nantucket Conservation Commission (the "Commission") which purported to approve the construction of a retaining wall proposed by Amy M. Ambrecht ("Ambrecht") at 13 Gingly Lane, Nantucket, Massachusetts. The Decision was arbitrary and capricious, and contradicted both the purpose and express requirements of the Massachusetts Wetlands Protection Act (G.L. c. 136 and 310 C.M.R. 10.55), and the Town of Nantucket Wetlands Bylaw (Nantucket Code § 136 and Nantucket Wetlands Regulations § 3.02).

PARTIES

1. Plaintiff SD White Properties, LLC is a Massachusetts Limited Liability Company with a principal place of business located at 1 Derby Street, Suite 207, Hingham, Massachusetts.
2. Defendant Town of Nantucket Conservation Commission is a duly constituted conservation commission for the Town of Nantucket, established pursuant to G.L. c. 40 § 8C, with a principal office located at 2 Bathing Beach Road, Nantucket, Massachusetts.

JURISDICTION

3. This Court has jurisdiction over this matter pursuant to G.L. c. 249 § 4.
4. Venue is proper in this county pursuant to G.L. c. 223 § 1 and § 8 as well Nantucket Code § 136-4(G).

STATEMENT OF THE FACTS

5. Plaintiff SD White Properties, LLC ("Plaintiff") is the owner of 47A West Chester Street, Nantucket, Massachusetts.
 6. Amy M. Ambrecht is the owner of the property located at 13 Gingy Lane, Nantucket, Massachusetts (the "Locus").
 7. Plaintiff's property directly abuts the Locus via a shared rear property line.
 8. Ambrecht seeks to construct a four-foot tall retaining wall only one foot from the property line.
 9. Rather than filing a Notice of Intent seeking an Order of Conditions from the Commission, Ambrecht instead elected to file a Request for Determination of Applicability on April 19, 2019. **Exhibit A – Request for Determination of Applicability.**
 10. Plaintiff's property abuts a Bordering Vegetated Wetland (BVW).
 11. The BVW creates a 50 foot buffer in which no water-dependent structures may be located pursuant to Nantucket Conservation Commission Wetland Regulations § 3.02(B)(1).
 12. The BVW also creates a 100 foot buffer, with the Regulations stating as follows:

Vegetated wetlands or Land within 100 feet of Vegetated Wetlands shall be presumed significant to the Interests Protected by the Bylaw as referenced in Section A[.]
- Wetland Regulations §3.02(B).
13. Section 3.02(A) states as follows, in pertinent part:

Land within 100 feet of a vegetated wetland is considered to be significant to the protection and maintenance of vegetated wetlands, and therefore to

the protection of the interests which these resource areas serve to protect. 2. In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering, or building upon a vegetated wetland, the Commission shall find that the vegetated wetland is significant to the protection of the following interests: public and private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution, fisheries, shellfish, wildlife, scenic views, and recreation. These findings may be overcome only upon a clear showing that the vegetated wetland does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

Wetland Regulations §3.02(A)(1)-(2).

14. The retaining wall proposed by Ambrecht is within the 100 foot buffer zone.
15. The Wetland Regulations themselves specifically state that any such construction within the 100 foot buffer zone is presumed to be subject to the Regulations.
16. To rebut this presumption, the Nantucket Wetlands Regulations clearly require a "clear showing" that the BVW is not impacted and requires "a specific written determination to that effect by the Commission."
17. The Commission issued a decision on June 5, 2019 that the Wetlands Bylaw and the Wetlands Regulations did not apply to the construction of the wall. **Exhibit B – Decision.**
18. The Board issued a Negative Determination that "[t]he work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection of the Act." *Id.*
19. The Decision permits Ambrecht to construct the wall without filing a Notice of Intent, jeopardizing the nearby Wetlands.
20. Plaintiff planted Leyland Cypress trees roughly two feet from the shared property line approximately eight years ago to provide screening for its property.
21. The proposed wall would require digging through the root systems of these trees, which are each approximately 25 feet tall.

22. At the Hearing on June 5, 2019, Ben Champoux, a member of the Commission and a certified Arborist, noted that "a potential hazard, and I think it's kind of obvious, that if that wall goes in, it's going to cut all the roots on that one side, it's going to destabilize these trees that are not too stable in the first place" and predicted that the owner of the Locus may have some liabilities in the future as a result of the destruction of the trees, and their eventual collapse.

23. The Commission made no "specific written determination" that the Act and the Bylaws do not apply to the construction of the wall, nor do they impose any additional conditions on their negative determination allowing Ambrecht to proceed with the wall.

24. The proposed wall is estimated to be approximately 175 feet long and four feet tall.

25. The proposed wall also abuts the property belonging to my neighbor to the west.

26. Ambrecht's father gifted her the Locus, and he has also gifted the next lot to the east on Gingy Lane to his son.

27. It is likely, if not certain, that the wall will be further extended to the east once Ambrecht's brother begins development of his lot, furthering the ecological impacts of said wall.

28. It is impossible to determine the potential ecological impact posed by such a massive structure without an appropriate Notice of Intent and consequent Order of Conditions following an environmental impact study.

29. Ashley Erlsman, a member of the Commission stated at the hearing that she "would want a notice because there is such a long line of silt fencing that's required here you know, to make sure that that stuff is maintained adequately because we are within a hundred feet of the resource area."

30. Over the past several years, Ambrecht has raised the grade of the Locus by several feet, by filling the Locus with construction debris, including bricks, blocks, wood, and other items without approval from the Commission or any other municipal authority.

31. An inspection by the Town of Nantucket resulted in an order that Ambrecht excavate and remove all construction debris from the rear of the Locus.

32. Ambrecht's prior illegal dumping of construction debris is further evidence that a Notice of Intent is proper in these circumstances to ensure compliance with the Wetlands Regulations.

33. Despite this, the Commission still issued a negative determination and implied that they would rely on their enforcement mechanisms rather than imposing specific conditions on the installation of the wall.

34. The wall is to be installed only one foot from the property line.

35. The installation of this wall is functionally impossible without access to Plaintiff's property.

36. The wall will destroy numerous trees which have existed on Plaintiff's property for approximately eight years.

37. A notice of intent and environmental impact study should be required to gauge the impact such a large structure (175 feet long) will have on the nearby wetlands.

38. Plaintiff timely filed an appeal of the Decision on June 18, 2018 to the Massachusetts Department of Environmental Protection.

39. Plaintiff is aggrieved by the Decision of the Commission because it is a direct abutter to the locus.

40. Plaintiff, through its agent S. David White, submitted written materials to the Commission on September 28, 2018.

41. Mr. White appeared personally at the various Commission meetings, including the June 5, 2019 meeting at which he voiced his concerns.

42. The Decision of the Commission impairs Plaintiff's ability to enjoy its property and

the surrounding environment.

43. The risks and harms to Plaintiff are concrete and specific, and are different in kind and nature than the harms that would be experienced by the general public.

44. These risks and harms are further heightened and particularized as Plaintiff is a direct abutter to the locus.

COUNT ONE
(G.L. c. 249 § 4)

45. Plaintiff repeats, realleges, and incorporates herein, each and every allegation of its Complaint.

46. The Commission's Approval of the site plan is arbitrary and capricious, lacking in substantial evidence and constitutes an error of law.

47. Nantucket Wetland Regulations §3.02(B) states that "Vegetated wetlands or Land within 100 feet of Vegetated Wetlands shall be presumed significant to the Interests Protected by the Bylaw as referenced in Section A[.].".

48. Nantucket Wetlands Regulations §3.02(A) clearly require a "clear showing" that the Bordering Vegetated Wetland is not impacted by the proposed construction and requires "a specific written determination to that effect by the Commission."

49. 310 C.M.R. 10.55 provides the functional framework for municipal regulation of bordering vegetated wetlands, and creates the same rebuttable presumption.

50. The Commission made no such written determination that the presumption had been overcome.

51. The site plan as it currently exists imperils the safety and geological stability of both properties through the destruction of existing vegetation, namely the cypress trees on Plaintiff's property, and further imperils the shellfish, wildlife, and fisheries by removing critical filtration provided by natural vegetation.

52. The removal of such natural vegetation would also potentially negatively impact soil erosion and groundwater flow.

53. If the Decision of the Commission is not overturned, then we may not know the environmental impacts until it is too late.

54. The Commission was required by their own Regulations to require the applicant to submit a notice of intent, which would lead to a more in-depth study of the environmental impact of this 175 foot retaining wall.

55. The Commission's failure to comply with the Nantucket Wetlands Regulations renders their decision arbitrary and capricious, and contrary to the provisions of the Wetlands Protection Act and the Wetland Protection By-Law of the Town of Bourne.

COUNT TWO
(Declaratory Judgment, G.L. c. 231A § 11)

56. Plaintiff repeats, realleges, and incorporates herein, each and every allegation of its Complaint.

57. 310 C.M.R. 10.55(3) creates a presumption that the construction in bordering vegetated wetlands is detrimental to the numerous interests outlined in 310 C.M.R. 10.55(1).

58. This presumption can only be overcome by a clear showing that such interests are not imperiled. 310 C.M.R. 10.55(3).

59. The Commission must make a written determination on WPA Form 6 (Notice of Non-Significance) that the presumption has been overcome. Id.

60. The Commission made no such determination, and did not complete a WPA Form 6.

61. Moreover, 310 C.M.R. 10.55 is silent as to Determinations of Applicability, and states rather that if "the issuing authority may issue an Order of Conditions[.]" 310 C.M.R. 10.55(4)(b) and (c).

62. 310 C.M.R. 10.55(b)(7) provides as follows:

In the exercise of this discretion, the issuing authority shall consider the magnitude of the alteration and the significance of the project site to the interests identified in M.G.L. c. 131, § 40, the extent to which adverse impacts can be avoided, the extent to which adverse impacts are minimized, and the extent to which mitigation measures, including replication or restoration, are provided to contribute to the protection of the interests identified in M.G.L. c. 131, § 40.

63. The Commission failed to adequately consider any of the above impacts.

64. There is an actual and present controversy between Plaintiff and the Commission regarding (1) whether the Commission's Decision was inconsistent with the Regulations and (2) whether the Commission was therefore without authority to issue a decision inconsistent with the requirements of 310 CMR 10.55.

65. The controversy would be terminated by the rendering of the declaratory judgment requested herein.

WHEREFORE, the Plaintiff, SD White Properties, LLC respectfully requests that this Honorable Court:

1. Annul the Commission's Decision and order that the Commission's Decision of June 5, 2019 be declared null and void;
2. In the alternative, remand this matter to the Commission requiring a Notice of Intent be filed by the applicant;
3. Enter a declaratory judgment declaring and decreeing that:
 - a. the Commission failed to comply with 310 C.M.R. 10.55(3);
 - b. the Commission was without authority to issue a decision that contradicts the express requirements of 310 C.M.R. 10.55(3);
 - c. the Commission failed to comply with Nantucket Wetlands Regulations §3.02(A)-(B); and
 - d. the Decision is therefore a nullity.

4. Grant Plaintiff any such other relief the Court deems just, appropriate and necessary.

Plaintiffs,
SD White Properties, LLC,
By its Attorney

Glen Hannington, Esq.
LAW OFFICES OF GLEN HANNINGTON
Ten Post Office Square, 8th Floor
Boston, Massachusetts 02109
TEL#: (617) 725-2828
BBO#: 635925
glenhannington@aol.com

EXHIBIT A



SITE DESIGN ENGINEERING, LLC.

11 Cushman Street, Middleboro, MA 02346
P: 508-967-0673 F: 508-967-0674

REQUEST FOR DETERMINATION OF APPLICABILITY

**Construction of a Retaining Wall and Associated Grading
Located Within the 100-foot Wetland Buffer Zone**

**13 Gingy Lane
Map 41 Parcel 850
Nantucket, MA**

Prepared for:

**Amy M. Ambrecht
42 Deep Run
Cohasset, MA 02025**

Prepared By:

**Site Design Engineering, LLC
11 Cushman Street
Middleboro, MA 02346**

April 19, 2019

SDE No.: 7004

WPA FORM 1

SITE DESIGN ENGINEERING, LLC.

11 Cushman Street, Middleboro, MA 02346
P: 508-967-0673 F: 508-967-0674



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Nantucket
City/Town

WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:
When filling out
forms on the
computer, use
only the tab key
to move your
cursor - do not
use the return
key.



1. Applicant:

Amy M. Ambrecht

Name

E-Mail Address

42 Deep Run

Mailing Address

Cohasset

City/Town

MA

State

02025

Zip Code

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Site Design Engineering, LLC

Firm

Mark Rits

Contact Name

mrits@sde-idec.com

E-Mail Address

11 Cushman Street

Mailing Address

Middleboro

City/Town

MA

State

02346

Zip Code

508-802-5832

Phone Number

508-967-0674

Fax Number (if applicable)

B. Determinations

1. I request the Nantucket Conservation Commission make the following determination(s). Check any that apply:

- ☐ a. whether the area depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- ☐ b. whether the boundaries of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- ☒ c. whether the work depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- ☒ d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any municipal wetlands ordinance or bylaw of:

Nantucket

Name of Municipality

- ☐ e. whether the following scope of alternatives is adequate for work in the Riverfront Area as depicted on referenced plan(s).



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Nantucket
City/Town

WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

13 Gingy Lane

Nantucket

Street Address

City/Town

41

850

Assessors Map/Plot Number

Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

See Attached Narrative

- c. Plan and/or Map Reference(s):

Proposed Site Plan - 13 Gingy Lane

08-Apr-2019

Title

Date

Title

Date

Title

Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

See Attached Narrative



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Nantucket
City/Town

WPA Form 1- Request for Determination of Applicability
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

See Attached Narrative

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- ☐ Single family house on a lot recorded on or before 8/1/96
- ☐ Single family house on a lot recorded after 8/1/96
- ☐ Expansion of an existing structure on a lot recorded after 8/1/96
- ☐ Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- ☐ New agriculture or aquaculture project
- ☐ Public project where funds were appropriated prior to 8/7/96
- ☐ Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- ☐ Residential subdivision; institutional, industrial, or commercial project
- ☐ Municipal project
- ☐ District, county, state, or federal government project
- ☐ Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

WPA Form 1-Request for Determination of Applicability

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

1. Name of the property owner: _____
2. Address of the property owner: _____
3. City/Town: _____
4. State: _____
5. Zip: _____
6. Name of the applicant: _____
7. Address of the applicant: _____
8. City/Town: _____
9. State: _____
10. Zip: _____
11. Name of the project: _____
12. Description of the project: _____
13. Location of the project: _____
14. Date of completion: _____
15. Signature of the property owner: _____
16. Signature of the applicant: _____
17. Date of submission: _____

D. Signatures and Submittal Requirements

The applicant must submit the following documents and supporting data to the Bureau of Resource Protection - Wetlands:

- 1. A completed and signed copy of this Request for Determination of Applicability (WPA Form 1).
- 2. A site plan showing the location of the project and the proposed wetlands.
- 3. A map of the project area showing the location of the project and the proposed wetlands.
- 4. A description of the project and the proposed wetlands.
- 5. A list of the documents and supporting data submitted.
- 6. A statement of the applicant's knowledge of the project and the proposed wetlands.
- 7. A statement of the applicant's understanding of the consequences of the project and the proposed wetlands.
- 8. A statement of the applicant's understanding of the requirements of the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40).

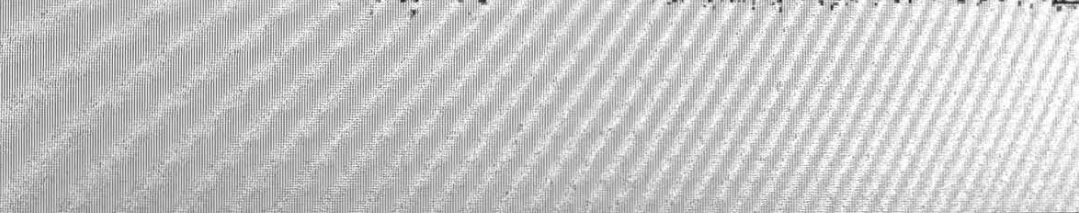
WPA Form 1-Request for Determination of Applicability

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

WPA Form 1-Request for Determination of Applicability

WPA Form 1-Request for Determination of Applicability



PROJECT NARRATIVE

SITE DESIGN ENGINEERING, LLC.

11 Cushman Street, Middleboro, MA 02346
P: 508-967-0673 F: 508-967-0674

PROJECT DESCRIPTION

**13 Gingy Lane
NANTUCKET, MASSACHUSETTS**

April 19, 2019

INTRODUCTION

The purpose of this Request for Determination of Applicability (RDA) is to request that the Nantucket Conservation Commission (Commission) approve the construction of a retaining wall and associated grading located within the 100-foot buffer zone to an offsite wetland resource area on property located at 13 Gingy Lane (Map 41 Parcel 850) in Nantucket (Subject Property). The jurisdictional wetland resource area is a Bordering Vegetated Wetland (BVW).

This RDA application is being submitted by the following property Owner and Applicant:

13 Gingy Lane
(Map 41 Lot 850)

Owner/Applicant
Amy M. Ambrecht
42 Deep Run
Cohasset, MA 02025

SITE OVERVIEW & EXISTING CONDITIONS

The Subject Property consists of an approximately 11,000 square foot parcel located on the southern side of Gingy Lane (see Figures 1 through 3 and Site Plan). To the south, west, and east, the Subject Property is bordered by developed residential properties. To the north, the Subject Property is bordered by Gingy Lane, a paved way and developed residential properties. The Subject Property has been cleared (see Site Plan). An off-site jurisdictional BVW is found on the abutting property to the southeast (47A West Chester Street Map 41 Lot 227.1). The BVW is located on the opposite side of existing development including a single-family residence (SFR) patio, pool, pervious driveway, and associated landscaping on the abutting property (see Site Plan). The extent of the BVW on the abutting property was delineated under SE48-3117 (Issued 10/03/2018) and is currently valid. The BVW casts buffer zones on to the Subject Property. Portions of the Subject Property are located within the 100-foot BVW buffer zone. The Subject Property is entirely outside of the 50-foot BVW buffer zone.

The Subject Property is located entirely outside of the 100-year flood zone as determined from FEMA Community Panel Number 250230 0086 G (Effective Date June 9, 2014) and is therefore located entirely outside of LSCSF (see Figure 6 and Site Plan).

PROPOSED ACTIVITIES

The Applicant is proposing to construct a retaining wall along the southern portion of the Subject Property and to perform grading and the placement of fill above the proposed retaining wall. All proposed activities will be located outside of the 50-foot BVW buffer zone. The Applicant is also proposing to construct a residence which will be located outside of jurisdictional areas. No Activities within any wetland resource area or within 50 feet of any wetland resource area are proposed as part of this RDA.

NHESP / MESA

The Subject Property is located entirely outside of any mapped NHESP habitat as indicated on the 2017 NHEASP Atlas (see Figure 5).

EROSION / SEDIMENTATION CONTROL & CONSTRUCTION PROTOCOL

The Applicant is proposing to construct a retaining wall which will act as a barrier to sedimentation and will function as erosion control (see Site Plan).

WETLAND RESOURCE AREAS

The purpose of this RDA is to request that the Commission approve the construction of a retaining wall and associated grading and fill located outside of the 50-foot buffer zone to an off-site wetland resource area and associated buffer zones subject to the jurisdiction of the Nantucket Conservation Commission under the State Wetlands Protection Act (310 CMR 10.00, Act) and its implementing Regulations (Regs) and the Nantucket Wetlands Protection Bylaw (§136-7, Bylaw):

- Bordering Vegetated Wetland (BVW)
- 100-Foot BVW Buffer Zone

CONCLUSION

The Applicant is requesting that the Commission approve the construction of a retaining wall and associated filling/grading located outside of the 50-foot buffer zone to an off-site BVW. The BVW is located on the opposite side of existing development from the Subject Property. The extent of the BVW was previously delineated on the abutting property and is currently valid. All proposed activities are in compliance with State and local regulations therefore, the Applicant respectfully requests that the Commission approve the proposed work included in this RDA.

FIGURES

LEGEND

Parcel Boundary

1:12,000

0

500

1,000

1,500

1 inch = 1,000 feet

Feet

Basemap: USGS Imagery, MissGIS



Project Location

CLIFFS

FELLS
Road

HULBERT

BEACH

AVE

ST

EASTON

Sunset Hill

Nantucket

Steamboat Wharf


Academy Hill Sch

Library

No Bottom Pond



LEGEND

 Parcel Boundary

1:12,000

0

500

1,000

1,500

1 inch = 1,000 feet

 Feet

N



Basemap: 2014 Orthophotography, MassGIS

Project Locus










13 Giny Lane - Nantucket, Massachusetts
 Map 41 Lot 850
 SDE Project No. 7004

Figure 3 - Detailed Site Overview
 April 19, 2019



LEGEND

-  Parcel Boundary
-  NHESP Priority Habitats of Rare Species
-  NHESP Estimated Habitats of Rare Wildlife
-  NHESP Certified Vernal Pools
-  Potential Vernal Pools

1:7,200 0 300 600 900
1 inch = 600 feet Feet

Base map: 2014 Orthophotography, MassGIS





Flood Zone Designations


- AE: 1% Annual Chance of Flooding, with BFE
- X: 0.2% Annual Chance of Flooding

13,600 0 150 300 450
1 inch = 300 feet Feet

Basemap: 2014 Orthophotography, MassGIS


N


LEGEND

 Parcel Boundary

FEMA National Flood Hazard Layer

Flood Zone Designations

 AE: 1% Annual Chance of Flooding, with BFE

 X: 0.2% Annual Chance of Flooding

1:3,600 0 150 300 450
1 inch = 300 feet  Feet

Basemap: 2014 Orthophotography, MassGIS



13 Gingy Lane - Nantucket, Massachusetts
Map 41 Lot B50
SDE Project No. 7004

Figure 6 - FEMA Flood Zones
April 19, 2019



ABUTTER INFORMATION

SITE DESIGN ENGINEERING, LLC.

11 Cushman Street, Middleboro, MA 02346
P: 508-967-0673 F: 508-967-0674

**LIST OF ABUTTERS
13 GINGY LANE
MAP 41 PARCEL 850**

1. 55 WEST CHESTER STREET (41-225)

SLOVER DOROTHY TRST
55 WEST CHESTER STREET NOM TRUST
875 FIFTH AVENUE
NEW YORK, NY 10065

9. 9 GINGY Lane (41-851)

MINELLA JOSEPH P.
72 NORTH LIBERTY STREET
NANTUCKET, MA 02554

2. 47A WEST CHESTER STREET (41-227.1)

SD WHITE PROPERTIES, LLC
1 DERBY STREET STE 207
HINGHAM, MA 02043

3. 12 GINGY Lane (41-844)

RUBIN BRADLEY & ANNE
7 NORTHWOOD LANE
WAYLAND, MA 01778

4. 14 GINGY Lane (41-845)

MARK DAVID G. & NANCY H. TRST
MARK FAMILY REV TRUST
77 REBECCA LANE
ATHERTON, CA 94027

5. 16 GINGY LANE (41-846)

KNOWLES FREDERICK C. ETAL
6304 AVALON DRIVE
BETHESDA, MD 20816

6. 18 GINGY LANE (41-847)

GODDARD ERIC W.
57 MEADOW VIEW DRIVE
NANTUCKET, MA 02554

7. 20 GINGY LANE (41-848)

MAYER WILLIAM J. & CYNTHIA E.
4 BATTERY WHARF UNIT 4604
BOSTON, MA 02109

8. 15 GINGY Lane (41-849)

15 GINGY LANE LLC
C/O SARAH MINELLA
PO BOX 2205
NANTUCKET, MA 02554

RECEIVED
BOARD OF ASSESSORS
FEB 20 2019
TOWN OF
NANTUCKET, MA

TOWN OF NANTUCKET
CONSERVATION COMMISSION

LIST OF PARTIES IN INTEREST IN THE MATTER OF THE PETITION OF:

PROPERTY OWNER Ambrecht Amy M.
MAILING ADDRESS 42 Deep Run, Cohasset, MA 02025
PROPERTY LOCATION 13 Glogx Lane
ASSESSOR MAP/PARCEL Map 41 Parcel 850
SUBMITTED BY Mark Rife - Site Design Engineering, LLC

SEE ATTACHED PAGES

I certify the foregoing is a list of persons who are owners of land directly abutting the property on which the proposed activity will occur (the locus), owners of land separated a distance of one hundred feet or less from the locus by a public or private street or way or stream and owners of land separated a distance of three hundred feet or less from the locus by a body of water, all as they appear on the most recent applicable tax list.

2-20-19
DATE

Pat F. Ry
ASSESSOR'S OFFICE
TOWN OF NANTUCKET

ABUTTERS LISTING HARTFORD, CT

Row	Block	Lot	File	Owner's Name	Co Owner's Name	Address	City	St Zip	Parcel Location
41		229		SLAYER MONETTE TRST		875 FLYING AVE	NEW YORK	NY 10043	55 W CHESTER ST
41		227	1	88 WHITE PROPERTIES LLC	54 WEST CHESTER PT HOM TRUST	3 DEWEY STREET 3RD FLY	BRIDGEWATER	MA 01833	41A W CHESTER ST
41		844		KUSH BRADLEY & AMER		7 HORTONWOOD LANE	WALLING	MA 01888	12 GIBBY LN
41		845		KANE DAVID C & KAREY H TRST	ARMED PARTIAL REV TRUST	77 KENNEDY LANE	ATLANTIC	CA 94007	14 GIBBY LN
41		846		KONIGS FREDERICK C SR		6304 MYRON DRIVE	NEEDHAM	MA 01946	16 GIBBY LN
41		847		GOODMAN ERIC W		57 HEDDEN FARM DRIVE	HARTFORD	MA 02154	18 GIBBY LN
41		848		SAVER WILLIAM J & CHRISTINA E		4 BATTERY ROAD UNIT 1804	BOSTON	MA 02109	20 GIBBY LN
41		849		51 GIBBY LANE LLC	C/O SARAH KIRKELLA	60 BOX 2105	HARTFORD	MA 02164	15 GIBBY LN
41		851		KIRKELLA JOSEPH P		12 W LIBERTY PT	HARTFORD	MA 02154	9 GIBBY LN

41

SLOVER DOROTHY TRST
33 WEST CHESTER ST NOM TRUST
875 FIFTH AVE
NEW YORK, NY 10065

41

SD WHITE PROPERTIES LLC
1 DERBY STREET STE 207
HINGHAM, MA 02043

41

RUBIN BRADLEY & ANNE
7 NORTHWOOD LANE
WAYLAND, MA 01778

41

MARK DAVID G & NANCY H TRST
MARK FAMILY REV TRUST
77 REBECCA LANE
ATHLETON, CA 94027

41

KNOWLES FREDERICK C ETAL
6304 AVALON DRIVE
BETHESDA, MD 20816

41

GODDARD ERIC W
57 MEADOW VIEW DRIVE
NANTUCKET, MA 02554

41

MAYER WILLIAM J & CYNTHIA E
4 BATTERY WHARF UNIT 4604
BOSTON, MA 02109

41

15 GINGY LANE LLC
C/O SARAH MINELLA
PO BOX 2205
NANTUCKET, MA 02584

41

MINELLA JOSEPH P
72 N LIBERTY ST
NANTUCKET, MA 02554

FILING FEE INFORMATION

SITE DESIGN ENGINEERING, LLC.

11 Cushman Street, Middleboro, MA 02346

P: 508-967-0673 F: 508-967-0674

CASH ONLY IF ALL CheckLock™ SECURITY FEATURES LISTED ON BACK INDICATE NO TAMPERING OR COPYING

SITE DESIGN ENGINEERING, LLC

11 Cushman Street
Middleboro, MA 02346
(508) 967-0673

Rockland Trust Company
63-447/113

4763

4/19/2019

PAY TO THE ORDER OF Town of Nantucket

\$ **200.00

Two Hundred and 00/100

DOLLARS

Town of Nantucket

16 PROTECTED AGAINST FRAUD

MEMO

13 Gingy Lane - RDA application technical review fe

⑆004763⑆ ⑆011304478⑆ 2983003688⑆

David M. G.

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SITE DESIGN ENGINEERING, LLC

11 Cushman Street
Middleboro, MA 02346
(508) 967-0673

Rockland Trust Company
63-447/113

4764

4/19/2019

PAY TO THE ORDER OF Town of Nantucket

\$ **25.00

Twenty-Five and 00/100

DOLLARS

Town of Nantucket

16 PROTECTED AGAINST FRAUD

MEMO

13 Gingy Lane - RDA application bylaw fee

⑆004764⑆ ⑆011304478⑆ 2983003688⑆

David M. G.

CASH ONLY IF ALL CheckLock™ SECURITY FEATURES LISTED ON BACK INDICATE NO TAMPERING OR COPYING

SITE DESIGN ENGINEERING, LLC

11 Cushman Street
Middleboro, MA 02346
(508) 967-0673

Rockland Trust Company
63-447/113

4765

4/19/2019

PAY TO THE ORDER OF Inquirer & Mirror Inc.

\$ **201.40

Two Hundred Ninety-One and 40/100

DOLLARS

Inquirer & Mirror Inc.

1 Old South Road
Box 1198
Nantucket, MA 02554

16 PROTECTED AGAINST FRAUD

MEMO

13 Gingy Lane - RDA application legal ad fee

⑆004765⑆ ⑆011304478⑆ 2983003688⑆

David M. G.

EXHIBIT B



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
The Town of Nantucket Wetlands Bylaw Chapter 136



A. General Information

From:

Nantucket
Conservation Commission

To: Applicant

Amy M. Ambrech

Name

42 Deer Run

Mailing Address

Cohasset

MA

02025

City/Town

State

Zip Code

Property Owner (If different from applicant):

Name

Mailing Address

City/Town

State

Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Proposed Site Plan

Title

04/08/2019

Date

Title

Date

Title

Date

2. Date Request Filed:

04/30/2019

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination:

Project Description (if applicable):

Construction of a retaining wall

Project Location:

13 Giny Lane

Street Address

41

Assessor's Map/Parcel Number

Nantucket

City/Town

050

Parcel/Assessor Number



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 - Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
The Town of Nantucket Wetlands Bylaw Chapter 136



B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

- ☐ 1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.
- ☐ 2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

- ☐ 2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

- ☐ 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.
- ☐ 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).
- ☐ 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw

Name

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
The Town of Nantucket Wetlands Bylaw Chapter 136



B. Determination (cont.)

- ☐ 6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:

- ☐ 7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.5B(4)c. for more information about the scope of alternatives requirements):

- ☐ Alternatives limited to the lot on which the project is located.
- ☐ Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- ☐ Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- ☐ Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

- ☐ 1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
- ☐ 2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- ☒ 3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any):
- _____
- _____
- ☐ 4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 - Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
The Town of Nantucket Wetlands Bylaw Chapter 136



B. Determination (cont.)

- ☐ 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (cite applicable statutory/regulatory provisions)

- ☐ 6. The area and/or work described in the Request is not subject to review and approval by:

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

☒ by hand delivery on

☐ by certified mail, return receipt requested on

05/05/2019

Date

Date

This Determination is valid for three years from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see http://www.mass.gov/dep/about/region_findyour.htm) and the property owner (if different from the applicant).

Signatures:

Andrew Bennett
Andrew Bennett, Chairman

Ernest Steinhauser
Ernest Steinhauser

Ashley Crisman
Ashley Crisman

Jon Golding
Jon Golding

Ben Champoux
Ben Champoux

David LaPlante
David LaPlante

Joseph Topham
Joseph Topham

05/05/2019

Date



SITE DESIGN ENGINEERS, LLC
 1000 W. 10th Street, Suite 100
 Oklahoma City, Oklahoma 73106
 Phone: (405) 555-1234
 Fax: (405) 555-5678
 Email: info@sitedesignllc.com

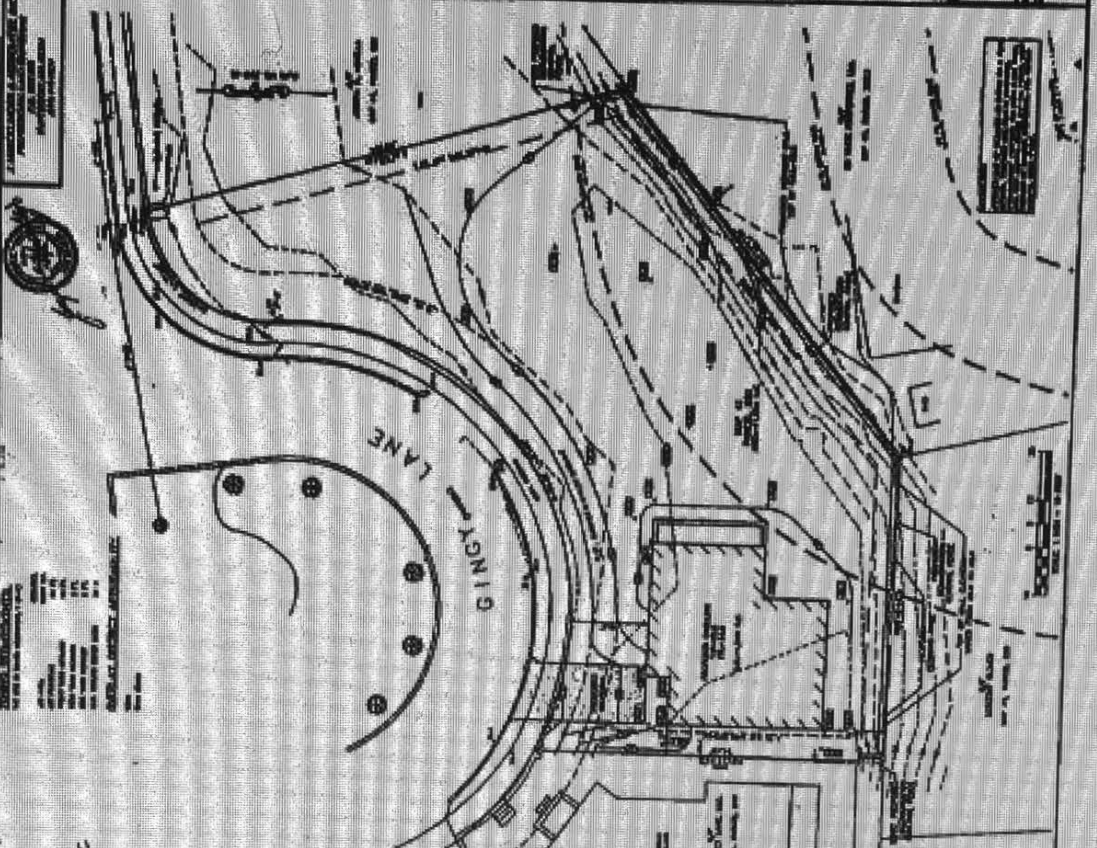
PROPOSED SITE PLAN

10000 S. 10th Street
 Oklahoma City, Oklahoma 73106
 Project No. 10000-10000

1 of 1

DATE: 10/1/2010

BY: J. Smith



LEGEND

1. EXISTING BUILDING	2. PROPOSED BUILDING
3. EXISTING PARKING	4. PROPOSED PARKING
5. EXISTING DRIVEWAY	6. PROPOSED DRIVEWAY
7. EXISTING EASEMENT	8. PROPOSED EASEMENT
9. EXISTING FENCE	10. PROPOSED FENCE
11. EXISTING UTILITY	12. PROPOSED UTILITY
13. EXISTING TREE	14. PROPOSED TREE
15. EXISTING LANDSCAPE	16. PROPOSED LANDSCAPE

NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE INTERNATIONAL PLUMBING CODE (IPC).
2. THE PROPOSED BUILDING SHALL BE CONSTRUCTED ON A 10' X 10' LOT.
3. THE PROPOSED PARKING SHALL BE CONSTRUCTED ON A 10' X 10' LOT.
4. THE PROPOSED DRIVEWAY SHALL BE CONSTRUCTED ON A 10' X 10' LOT.
5. THE PROPOSED EASEMENT SHALL BE CONSTRUCTED ON A 10' X 10' LOT.
6. THE PROPOSED FENCE SHALL BE CONSTRUCTED ON A 10' X 10' LOT.
7. THE PROPOSED UTILITY SHALL BE CONSTRUCTED ON A 10' X 10' LOT.
8. THE PROPOSED TREE SHALL BE CONSTRUCTED ON A 10' X 10' LOT.
9. THE PROPOSED LANDSCAPE SHALL BE CONSTRUCTED ON A 10' X 10' LOT.

APPENDIX A

1. EXISTING SITE PLAN

2. PROPOSED SITE PLAN

3. EXISTING EASEMENT

4. PROPOSED EASEMENT

5. EXISTING FENCE

6. PROPOSED FENCE

7. EXISTING UTILITY

8. PROPOSED UTILITY

9. EXISTING TREE

10. PROPOSED TREE

11. EXISTING LANDSCAPE

12. PROPOSED LANDSCAPE



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
The Town of Nantucket Wetlands Bylaw Chapter 136



D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office (see <http://www.mass.gov/dep/about/region/findyour.htm>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see Request for Departmental Action Fee Transmittal Form) as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant if he/she is not the appellant. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

Request for Departmental Action Fee Transmittal Form

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
The Town of Nantucket Wetlands Bylaw Chapter 138

A. Request Information



1. Person or party making request (if appropriate, name the citizen group's representative):

Name _____

Mailing Address _____

City/Town _____ State _____ Zip Code _____

Phone Number _____ Fax Number (if applicable) _____

Project Location _____

Mailing Address _____

City/Town _____ State _____ Zip Code _____

2. Applicant (as shown on Notice of Intent (Form 3), Abbreviated Notice of Resource Area Delineation (Form 4A), or Request for Determination of Applicability (Form 1)):

Name _____

Mailing Address _____

City/Town _____ State _____ Zip Code _____

Phone Number _____ Fax Number (if applicable) _____

3. DEP File Number: _____

B. Instructions

1. When the Departmental action request is for (check one):

☐ Superseding Order of Conditions (\$100 for individual single family homes with associated structures, \$200 for all other projects)

☐ Superseding Determination of Applicability (\$100)

☐ Superseding Order of Resource Area Delineation (\$100)

Send this form and check or money order for the appropriate amount, payable to the Commonwealth of Massachusetts to:

Department of Environmental Protection
Box 4052
Boston, MA 02211

#2

CIVIL ACTION COVER SHEET		DOCKET NUMBER 1975CV00023	Superior Court of Massachusetts The Superior Court	
PLAINTIFF(S): 8D White Properties, LLC ADDRESS: 1 Derby Street, Suite 207 Hingham, MA 02043 ATTORNEY: Glen Harrington, Esq. ADDRESS: 10 Post Office Square, 8th Floor Boston, MA 02109 gharrington@aol.com		COUNTY: Nantucket DEFENDANT(S): Town of Nantucket Conservation Commission ADDRESS: 2 Bathing Beach Road Nantucket, MA 02554		
TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)				
CODE NO. E03, D13, AE1	TYPE OF ACTION (specify) Certiorari Action, G.L. c. 249 s. 4	TRACK X, A	HAS A JURY CLAIM BEEN MADE?	
			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
"If 'Other' please describe: Declaratory Judgment, G.L. c. 231; Administrative Action involving Municipality				
STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A				
The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.				
TORT CLAIMS (attach additional sheets as necessary)				
A. Documented medical expenses to date:				
1. Total hospital expenses			\$	_____
2. Total doctor expenses			\$	_____
3. Total chiropractic expenses			\$	_____
4. Total physical therapy expenses			\$	_____
5. Total other expenses (describe below)			\$	_____
			Subtotal (A):	\$ _____
B. Documented lost wages and compensation to date			\$	_____
C. Documented property damages to date			\$	_____
D. Reasonably anticipated future medical and hospital expenses			\$	_____
E. Reasonably anticipated lost wages			\$	_____
F. Other documented items of damages (describe below)			\$	_____
G. Briefly describe plaintiff's injury, including the nature and extent of injury:				
			TOTAL (A-F):	\$ N/A
CONTRACT CLAIMS (attach additional sheets as necessary)				
Provide a detailed description of claim(s):				
			TOTAL \$	N/A
Signature of Attorney/Pro Se Plaintiff: X			Date: 6-20-19	
RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.				
CERTIFICATION PURSUANT TO SJC RULE 1:18				
I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.				
Signature of Attorney of Record: X			Date: 6-20-19	

